in the property from the defendant. *Held,* that the partition decree did not affect the plaintiff's rights because she became an heir to the property immediately upon the death of her father, and not having been a party to the suit was not bound by it. *Deal* v. *Sexton* (1907), — N. C. —, 56 S. E. Rep. 691.

In this situation, there would seem to be a conflict between the principle that a judgment is res judicata only against parties to a suit and the policy of the law to uphold judicial sales. There being no way of ascertaining the existence of such unborn children it seems hard to hold purchasers in good faith accountable for their shares. However, following the strict rules of law which declare that an unborn infant takes as heir to the land of its father equally with other children, and that a person not a party to a suit is not bound by the judgment, we are bound to reach the conclusion of the principal case. The authorities are almost uniformly with the principal case. *Pearson* v. *Carlton,* 18 S. C. 47; *Giles* v. *Solomon* (N. Y.), 10 Abb. Prac. (N. S.) 97, note; *Detrick* v. *Migatt,* 19 Ill. 146; *McConnell* v. *Smith,* 39 Ill. 279; *Botsford* v. *O'Conner,* 57 Ill. 72; *Massie* v. *Hiatt's Adm'r,* 82 Ky. 314. On the other hand, JUDGE FREEMAN strongly dissented from the doctrine in a note to *Carter* v. *White,* 101 Am. St. Rep. 869-870; and in support of his contention cites *Knotts* v. *Stearns,* 91 U. S. 638, 23 L. Ed. 252. However, it would seem that the only way to avoid this seemingly harsh situation is by statute which will postpone the partition suit until after possibility of posthumous children has passed.

JURY—AFFINITY AS AFFECTING COMPETENCE OF JURYMAN.—On examination of the jurors as to their competency to serve it was found that one of the jurors was related by affinity to the accused, *held,* death had removed the relationship, and the juror was qualified to serve. *Gillespie* v. *State* (1907), — Ind. —, 80 N. E. Rep. 829.

The rule seems to be that affinity is a cause far challenge while the party through whom the relationship is gained is living. If this party is deceased but leaves heirs surviving, the disqualification also survives. But if the party through whom the affinity is claimed is dead, and no heirs survive, then the juror is not disqualified. *Bigelow* v. *Sprague,* 140 Mass. 425; *Cain* v. *Ingham,* 7 Cow. (N. Y.) 478; *State* v. *Shaw,* 25 N. C. 532. Clearly the weight of authority is with the decision of the principal case, but the rule is not universal. In *Bank* v. *Hart,* 3 Day (Conn.) 491, a juror had married the sister of a party in another case depending upon the same principles. Although the wife was then dead, the juror was excused from sitting on the trial. In *Bigelow* v. *Sprague, supra,* the relationship by affinity was much more involved than in principal case, and the juror was held competent to act as such. In this case, an uncle of plaintiff married an aunt of the juror, and two uncles of the juror married aunts of the plaintiff, but each marriage had been dissolved by death of one of the parties, and there was no issue of the marriages.

JURY—COMPETENCE OF JURYMAN—DISCRETION OF THE COURT.—On cross examination a juror stated that he knew deceased, that he read an account of the homicide at the time it occurred, in both daily papers of Galveston,